

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

**In the Matter of the Nebraska Public
Service Commission, on its own motion,
to investigate issues related to the
calculation and reimbursement of costs
to carriers of implementing enhanced
wireless 911 service.**

Application No. 911-015/PI-106

**COMMENTS OF N.E. COLORADO CELLULAR, INC.
d/b/a VIAERO WIRELESS**

N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless (“Viaero”), by counsel and pursuant to the Order of the Nebraska Public Service Commission (the “Commission”) Opening Docket and Requesting Comment, dated August 30, 2005, Application No. 911-015/PI-106 (the “Order”), hereby files comments in the above-captioned proceeding.

I. Introduction

Viaero is a provider of commercial mobile radio service (“CMRS”) in Colorado and Nebraska. Viaero is an ETC in Colorado and has applied for ETC status in Nebraska.¹ Over the past several years, Viaero has had significant experience complying with the Colorado rules for E-911 services and has participated in the Colorado Commission’s implementation of a decision of the Colorado legislature to reimburse wireless carriers for their E-911 expenditures. As such, Viaero is qualified to provide the Commission with facts and opinions on E-911 reimbursement here in Nebraska.

II. Determination of Costs

In Colorado, Viaero calculates its costs for E-911 services based on the actual costs. Hard costs include, for example, third-party hardware and software, equipment upgrades at switching centers and cell sites, transmission capacity between cell sites, switching centers, and

¹ See Application No. C-3324 (filed Dec. 23, 2004).

the PSAPs. Soft costs include, for example, labor for installation, maintenance, and recurring charges to third-party E-911 service providers, which impose a monthly service charge for each cell site deployed with E-911 capability.

III. Cost Recovery Mechanism in Colorado

In Colorado, the legislature passed a statute mandating cost recovery for wireless E-911 Phase I and Phase II. The statute reads in part: "A mechanism for recovery of costs reasonably incurred by wireless carriers, service suppliers and basic emergency service providers in the acquisition and transmission of 9-1-1 information to public safety answering points is necessary to insure that wireless service users receive the same level of 9-1-1 service as wireline service users." C.R.S. 29-11-100.5. The statute creates a specific right to recover for costs incurred in making network upgrades for Phase II: "A wireless carrier or BESP that provides wireless ALI or wireless ANI services at the request of a governing body, and pursuant to a contract between the wireless carrier or BESP and the governing body, shall be reimbursed by such governing body or its designee for the costs incurred in making any equipment changes necessary for the provision of such service." C.R.S. 29-11-104(4).

The Colorado Commission has implemented a mechanism that permits wireless carriers, including Viaero, to recover their E-911 implementation costs. In simple terms, Viaero must submit to the Commission its actual costs of providing the services and then the Commission approves a line item charge that Viaero places on its subscriber bills to recover E-911 costs. The amount of the monthly charge is determined by the level of expenses approved by the Commission. Carriers in Colorado are entitled to full cost recovery for their E-911 expenditures through the line-item surcharge, based on actual E-911 costs submitted to and approved by the Commission.

IV. A Uniform Calculation Should Not Be Established

Viaero does not favor a uniform calculation for E-911 reimbursement for one very practical reason: there are right now two technologies used to provide wireless E-911 services. Carriers with CDMA networks use a “handset” based solution, which places a global positioning system (“GPS”) chip in each user’s handset. The handset can then be located via satellite.

Carriers with GSM networks do not have access to handsets containing GPS chips. They are not manufactured by the handset makers. Thus, GSM carriers must use a “network” based solution, which requires a handset to be located by triangulation from nearby towers. It is Viaero’s understanding that the level of investment required to implement a network solution is higher than that required by a handset solution. Soon, there may be new vendors offering other location-based solutions which will presumably have different cost structures.

Thus, this is not a case where the technology is the same and carriers are buying it from multiple vendors at competitive prices. Nor is this a case where a low baseline could be established for all carriers to meet on a competitive basis – since each carrier is required to implement E-911 and since GSM carriers have no ability to choose a handset based solution.

Here, the solution for each carrier may have significantly different cost structures which raises the likelihood that the Commission would over- or under- compensate wireless carriers for E-911 costs by a significant amount. Thus, a mechanism which permits carriers to submit their costs of providing E-911 service will enable the Commission to accurately reimburse carriers.

V. The Commission Must Implement Some Form of Cost Recovery for Wireless Carriers

Whatever the Commission decides, it is critical that some form of cost recovery be implemented for wireless carriers. In particular, small independent wireless carriers are significantly disadvantaged in implementing wireless E-911 because they have fewer subscribers

among which to spread the costs of providing the service and the basic costs of implementing E-911 are almost as large for small carriers as they are for large carriers. Large carriers have bigger incremental costs because they must roll out the technology to more cell sites, but the core platform cost is a much bigger expenditure proportionally for a small carrier than for one with millions of subscribers and a large city rate base.

Most large wireless carriers have been placing regulatory surcharges on their bills for many years, banking up dollars to spend on 911 projects. Smaller carriers generally have not, and even those that have, collect far less because they have fewer customers.

Large wireless carriers also have enormous buying power, enabling them to obtain discounts from E-911 vendors that are not available to small carriers.

Large wireless carriers have in-house engineering assets, including personnel, hardware and software, which can be drawn upon to implement E-911 systems. These assets must be contracted out by small wireless carriers, adding to the cost.

Without a mechanism for carriers to recover their costs, Viaero will have no choice but to either levy a line-item charge on its customers' bills, to the extent permitted by law, or raise its rates for providing service to recover E-911 costs. Either choice is unpalatable in that it makes Viaero's service less competitive with larger wireless carriers and other competitors.

Thus, Viaero respectfully requests the Commission to determine a reasonable means of permitting wireless carriers to recover their costs of providing E-911 services so that consumers will benefit from those services and independent wireless companies will be able to compete in rural Nebraska on a level playing field with large wireless carriers.

Respectfully submitted this 14th day of October, 2005.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 14th day of October, 2005, an original, five copies and an electronic copy of the Comments of N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless, in Application No. 911-015/PI-106 were hand delivered to:

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